RAIL PASSENGERS ASSOCIATION

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Surface Transportation Reauthorization Proposals

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Blueprint - Contents

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1. Operations

1.1. Regional Hybrid Urban-Suburban Rail Model

Development of passenger rail systems in the US have been a product of historical accident and disinvestment. This has resulted in a fragmented patchwork of localized systems that duplicate operating costs and restrict connectivity, providing slower and less frequent service at a higher cost to passengers. RPA proposes a comprehensive restructuring of the intercity, commuter, and urban rail systems to introduce a hybrid urban-suburban rail model. This hybrid model has already been a demonstrated success in Germany (S-Bahn) and France (Paris RER) and would allow for the creation of a faster, more frequent rail service within the constrained fiscal environment.

Utilizing the recently completed regional rail studies overseen by the FRA as part of the Passenger Rail Improvement and Improvement Act of 2008 (PRIIA)**, Congress should authorize federal administrative authority to waive regional jurisdiction for the creation of and implementation of integrated, Regional Rail Operating Model (RROM)**.

Governing principles should include:

- **Elimination of artificial funding categories for commuter rail, intercity rail, and transit.** This will ease investment in multi-purpose infrastructure elements that facilitate multiple types of service.
- **Encourage through-running over stub-end, city-center terminals.** Stub-ends can create an unnecessary barrier, requiring transfers and duplicative infrastructure, which reduces track capacity.
- **Encourage integration of governance within a single regional agency.** While not strictly necessary—subway systems in Tokyo and the RER in Paris are both run by two separate agencies—it would streamline administration costs and optimize system planning.
- **Operate RROMs as rapid transit**. Implement short dwell times, install fully electrified double-track, utilize rapid transit signals.
- **Provide local service**. Many commuter rail agencies exist primarily to connect a few park-and-ride stations to city centers. By creating infill stations and through-running trains, agencies can transform low-ridership commuter rail into high-ridership rapid rail transit.
- **Optimize fare collection and pricing.** High-ridership RROMs should mimic rapid transit and have fare gates instead of conductors who collect tickets; lower-ridership RROMs could rely on spot-checking. Fare systems would be unified, so that one could travel from one suburb to another on one ticket.
- **Optimize transfers.** Transfers should be timed to complement connections from other lines—especially on trunk lines—and coordinated for cross-platform configurations to simplify walking from one train to another.

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1.2. Shared-Use Corridor Advisory Committee

The current financial relationship between Amtrak, the host railroads and the states has failed to deliver the frequency and dependability needed to attract large numbers of travelers. Commercial and political success require that interested parties be incentivized to develop practical solutions. **RPA is calling for Congress to establish a charter for a Shared-Use Corridor Advisory Committee (S-CAC).**

This committee will develop new regulatory standards, through a collaborative process, with all segments of the rail community working together to fashion mutually satisfactory solutions on shared-use operations. The Committee shall seek agreement on the facts and data underlying any real or perceived shared-used operations problems; identify cost effective solutions based on the agreed-upon facts; and identify regulatory options where necessary to implement those solutions. In determining whether regulations are necessary, the Committee shall take into account section 1(a) of Executive Order 12866 (Regulatory Planning and Review).

The SCAC should be composed of voting representatives from member organizations representing various rail industry perspectives, as well as nonvoting advisory representatives from the agencies with relevant railroad responsibility in Canada and Mexico, the Surface Transportation Board, the National Transportation Safety Board, and the Federal Transit Administration. The committee should represent diverse interests to ensure the requisite range of views and expertise necessary to discharge its responsibilities.

1.3. Central Dispatching Authorities

The fluidity of the national rail system is too important to sacrifice for small gains by private firms. Railroad leadership has admitted as much: in a hearing before the Surface Transportation Board regarding poor on-time performance by CSX, then-CEO Hunter Harrison suggested that the optimal solution for Chicago's congested infrastructure would be a central dispatching authority. There is precedent and a relevant model in the federal law authorizing the Federal Aviation Administration's provision of air traffic control services to private sector airlines.

Congress should direct the FRA to perform a pilot study identifying the benefits of implementing Central Dispatching Authorities.

1.4. Increased Rate Per Train Mile Pilot Program

In general, Amtrak pays about $5.00 per train mile to host railroads, paying incentives above the statutory rate for delivering on-time performance. Congress should launch a pilot program with significantly increased per-train-mile to understand possible effects on the relationship between Amtrak and host railroads. Revenues would theoretically increase as more passengers ride and pay

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higher fares for faster and more dependable service, with operating costs reduced by better use of rolling stock and crews.

1.5 Recognize Importance of National Network to U.S. Transportation and Rural America

As part of the Fiscal Year 2019 omnibus, Congress passed language describing the importance of the National Network to rural Americans and the U.S. transportation network:

> *"It is the sense of Congress that 1) long-distance passenger rail routes provide much-need transportation access for 4,700,000 riders in 325 communities in 40 States and are particularly important in rural areas; and 2) long-distance passenger rail routes and services should be sustained to ensure connectivity throughout the National Network."*

RPA believes this language should be included—with language added to recognize the importance of on-time performance to the long-term viability of the National Network—as a guiding principal for passenger rail investment in the surface transportation authorizing law.

2. Physical Infrastructure

2.1. Creation of a Right of Way Acquisition Program

As of 2015, outside of the NEC 70% of the host railroad lines that Amtrak uses were single-tracked, meaning that there is latent capacity in most extant rights of way (ROW).

Rather than capitalize on this to expand capacity and fluidity, the rail industry is in a period of contraction. With losses in coal and crude oil rail shipments—down 44 percent and 60 percent off peak rates, respectively—railroads are looking to shed infrastructure and consolidate operations. In January 2018, CSX Transportation revealed it was reviewing 8,000 miles of rail lines as potential candidates for sale or lease as a way to create additional shareholder value. RPA expects this industry trend to continue.

Congress should create a federal grant program that would allow states and municipalities to purchase abandoned and underutilized corridors from freight railroads.

Passengers have already seen this work on the local level; CSX donated its abandoned S-line between Petersburg and North Carolina to the Commonwealth of Virginia as part of a project which will allow passenger traffic to bypass a busy CSX switching yard. Conversely, Virginia's Lynchburg/Charlottesville to Richmond was dealt a serious setback when Norfolk Southern abandoned the old Norfolk and Western mainline through Farmville and donated the ROW to the Commonwealth for a rails-to-trails project.

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Having participated in the regional intercity rail studies led by the FRA over the past decade, our Association believes the FRA possesses the insight and vision to guide a grant program aimed at preserving these invaluable ROWs for rail service, further enabling passenger/freight separation and increased passenger frequencies. The grant program should require a state match for federal dollars, with advance acquisition of railroad ROWs eligible for funding.

2.2. Advance Right of Way Acquisition Authority

As a critical companion to ROW Acquisition Grants, Congress should **authorize states, railroads, and all relevant operating authorities to engage in the advance acquisition of railroad ROWs**, similar to what is currently allowed for the advance acquisition for highway and public transit projects.

Congress should also amend the **FTA Fixed Guideway Capital Investment Grants authorizing language allowing non-federal expenditures to acquire property, prior to the award of a grant, to be included in the non-federal share of total project costs.** This will enable Amtrak to make advance acquisitions of property on necessary projects, lowering costs and speeding delivery.

2.3. Right of Way Tax Credit Program

As a supplement to ROW Acquisition Grants, Congress should **authorize a tax credit program that incentives private sector donation of underutilized and abandoned ROWs** to state entities for purposes of developing passenger rail networks.

2.4. Implement Effect Design-Build Guidelines for Rail Projects

With traditional design-bid-build, owners, designers, and contractors are segregated from design concept to final construction. Requiring 100% design unnecessarily extends the review and clearance process, extending project timelines and adding to final costs.

The USDOT should issue design-build guidelines to enable recipients of federal funds to employ a Design-Build framework for project delivery. This process can be technically daunting, but it has been demonstrated to lower project costs and speed delivery.

USDOT guidelines should outline best practices for each step of the process:

- An owner to release a 30% complete set of design documents to qualified design-build teams as the initial step.
- The contractor then partners with a designer to advance the design to a point where the contractor can determine project costs.
- The contractor and the designer collaborate to develop alternate technical concepts (ATCs) to reduce costs, resources, and schedules.

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- Each design-build team's submitted proposals are assessed. The owner develops a scoring system that accounts for costs and schedule. Points are then allocated for which team brings the most benefit.
- The owner selects the successful design-build team, the designer then advances the 30% design to a 100% design during the construction phase.

Federal environmental review processes should also be revised to enable the successful application of the design-build approach.

2.5. Integration ROW Creation/Preservation and Housing Planning

Given the desirability of increasing housing near public transportation corridors, the USDOT should work with the Housing and the US Department of Housing and Urban Development to ensure Right of Way preservation in residential and commercial developments requiring federal oversight and approval. Rail stations should additionally be granted eligibility for HUD's Community Development Block Grant Program.

2.6. Transit Oriented Development

Congress should create a permanent program that will allow Transit Oriented Development (TOD) commercial development with RRIF/TIFIA financing for projects stipulated by the Secretary of Transportation to have significant value capture to support the ongoing station and passenger operations, creating a coordinated development-transportation plan.

This proposal is time-sensitive: the FAST Act expanded eligibility for RRIF loans and loan guarantees to authorize support for rail-related TOD projects, and this eligibility expires on December 4, 2019.

2.7. Uniform Station Design

In order to enable the maximum uniformity across equipment (see "Encourage Uniformity Across Equipment and Consist Design"), the FRA should establish uniform station and platform designs.

3. Equipment

3.1. Encourage Uniformity Across Equipment and Consist Design

The Federal Railroad Administration has written new regulations for passenger trains that will result in lighter, safer, more efficient trains. A new Tier III classification will allow trains designed for 125 mph or more to operate in mixed traffic at less than 90 mph. "Alternate Compliance" will allow operators to take advantage of safety advances from overseas and create a unified market—both of which will facilitate domestic manufacturing by creating a stable and broad market, lowering procurement costs.

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Congress must direct FRA to formalize these new regulations and establish the following uniform design principals:

- High power-to-weight ratio, allowing them to accelerate quickly and remain stable at very high speeds;
- Low centers of gravity and sophisticated suspensions that allow faster running through curves;
- Encourage semi-permanent unit trainsets to improve safety, allow for more sophisticated on-board electronics while motivating the operator to conduct regular maintenance to keep the entire train in service.

3.2. Buy America Reform and Domestic Manufacturing Incentivization

Recognizing the lack of a robust domestic rail equipment manufacturing sector, Congress should create a bridge program that will **allow the FRA increased flexibility in granting waiver to Buy America Act requirements** for passenger rail equipment to allow for lower the cost of procurement for transit.

To ensure the development of a domestic rail manufacturing industry, this waiver program should include a 10-year sunset provision and be paired with a US Rail Manufacturing Bureau (USRMB) to encourage coproduction agreements between US and international firms.

The aviation industry has created a blueprint for this kind of successful technology transfer between mature manufacturing markets and emerging manufacturing markets. While the technology transfers in aviation are usually a US export, this USRMB can help establish offset agreements in order to gain economic benefits for the expenditure of public funds on the purchase of equipment from foreign suppliers.

4. Ensuring On-Time Performance

4.1. Create Private Right of Action to Amtrak

Rail Passengers is asking **Congress to grant Amtrak a Private Right of Action** to enforce dispatching preference as described in Amtrak's Fiscal 2019 Grant Request. Current law requires that enforcement be initiated through civil action by the U.S. Department of Justice (DOJ) before a District Court judge. The DOJ has exercised this privilege one time in Amtrak's forty-plus year history. Granting Amtrak a private right of action to enforce its statutorily granted preference would merely be giving it the same legal recourse as any other company if its rights were being violated.

4.2. Designate FRA as Sole Entity for Metrics and Standards

In addition to Private Right of Action, Rail Passengers supports legislation that shifts **creation of Metrics and Standards—as described in Section 207 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) (Division B of Pub. L. 110-432)—to the Federal Railroad**

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Administration. This will streamline regulatory oversight and reinvigorate meaningful passenger protections as originally envisioned by Congress.

4.3. Implement Financial and Market Data Filings

DOT for decades has already developed and refined a working model to a high level of maturity for addressing precisely this kind of requirement in another travel mode: airlines. The type of information gathered in Form 41 financial filings and T100 market data filings is ideal for developing an informed picture of the state of America's air-transportation enterprise. The combined datasets that result from these two data-gathering processes generate monthly, quarterly and annual metrics that can help professionals and the traveling public understand everything from the financial health of individual operators to travel demand for city pairs, shifts in demand patterns over time, and consumer-focused metrics such as delays and cancellations. Existing FRA datasets do a reasonably good job of capturing commodity shipments, for example, but lack the depth and consistency that a Form 41/T100 approach could produce.

Mechanisms have been matured at FAA for gathering and presenting this data in ways that allow meaningful analysis while preserving proprietary protections for individual operators. In rail operations, new metrics could be derived from better data collection and more complete fact gathering. These could, and should, inform public policy.

As just one small example, RPA believes that by gathering and publishing such data, FRA could beneficially help to set not only a minimum on-time performance standard, but a data-driven target for exceeding minimum standards that could offer significant financial incentives to host railroads that not only deliver superior OTP but reduced trip times and greater frequencies. This could perhaps take the form of bonus payments that rise on a scale calibrated to OTP achievements, incentivizing private investments in a rail network that can serve not only freight customers but passenger trains at the high service levels a robust national infrastructure demands.

A systematic, transparent and detailed data-collection regime that mirrors the statistics now gathered and reported in air travel could lead to more nuanced regulatory approaches to addressing the multiple root causes of persistent delays. With more reliable information as to the costs and benefits of such investment, additional agreements could be more easily made creating an influx of public investment into the national rail system, easing more than just passenger bottlenecks.

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5. Regulation and Oversight

5.1. Federal Role in Insurance Provision

Given the desirability of introducing higher levels of competition into the passenger train operating market, and the limited marketplace that currently exists, RPA argues that the federal government has a larger role to play in insurance provision for rail operators. One such role would be mandated contributions to a captive insurance pool overseen by the federal government, designed to pay excess claims on a no-fault basis, with minimum insurance requirements attuned to size and budget. Another approach would be for the government to act as direct insurer offering subsidized premium, similar to what is seen in the National Flood Insurance Program. Finally, lawmakers could lower the liability cap to a market-friendly level and provide a federal backstop for insurers, such as with the Terrorism Risk Insurance Program.

5.2. Study PTC Technology's Effect on Liability Requirements

While the post-accident needs of victims cannot be ignored, it is essential that they always be balanced with the viability of these essential transportation services. With 40,000-plus highway deaths, national safety priorities demand shifting more passenger-miles onto rail. With this in mind, RPA believes that—based on analysis of the civil outcomes following recent catastrophic derailments—the $294 million cap created by the FAST Act in 2016 (to be readjusted every five years according to inflation) does not need to be increased. With the imminent introduction of Positive Train Control technology, we believe it may even be appropriate for a federally-led study to analyze the appropriateness of reducing that cap once the PTC system is in place and fully operational.

6. Financing

6.1. Dedicated Passenger Rail Account

Introduce a predictable, dedicated, and robust Passenger Rail Trust Fund. This Trust Fund could utilize diverse revenue streams, including:

- **Per Barrel Tax** on crude oil;
- **Intercity Railroad Passenger Tax** assessed at point of sale;
- **E-Commerce Transportation Tax** for online sales;
- **General Sales Tax,** similar to those established by the Commonwealth of Virginia to fund rail infrastructure and operations;
- A broadly-based tax **Station Area Value Capture Tax** program for NEC and National Network-served train stations;
- Transformation of current FAST Act INFRA program to create a larger **Intermodal Freight Fund**, establishing a 1% freight user fee, projected to produce $9 billion a year, for an intermodal fund with no limitation on the percentage committed to rail projects.

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6.2. Passenger Rail Account Funding Levels

Rail Passengers is calling for a significant increase in passenger rail investment to address decades of stagnant funding. Learning from the experience of the High-Speed and Intercity Passenger Rail Program, Rail Passengers has outlined a steady increase across funding categories, which will enable the Federal Railroad Administration to slowly build up its grantmaking capacity:

- **Amtrak – Northeast Corridor:** 10% year-over-year increase in funding, using FY2019 enacted levels as a baseline. Allows Amtrak to address the state-of-good-repair backlog on the NEC and move forward on several critical bottleneck capital projects.
- **Amtrak – National Network**: a 5% year-over-year increase in funding, using FY2019 enacted levels as a baseline. Allows Amtrak to overhaul its aging National Network fleet of equipment, stations and facilities.
- **Consolidated Rail Infrastructure & Safety Grants**: after an initial one-time plus-up, the CRISI program grows at an annual rate of 10%. Funds projects that will reduce congestion and facilitate ridership growth along heavily traveled rail corridors, and corridor development plans and corresponding environmental analyses, accelerating the development of short-distance passenger rail corridors (>400 miles) connecting major metropolitan markets.
    - **Positive Train Control:** intended to fund the deployment of safety technology, a well-funded CRISI program will play a key role in allowing commuter rail agencies to meet the the ongoing costs of operations and maintenance of PTC, which agencies project at $130 million per year.
- **Federal State Partnership for State of Good Repair**: after an initial one-time plus-up, the Federal-State SOGR program grows at an annual rate of 10%. Replaces existing assets in-kind, assets that increase capacity or provide a higher level of service, and bring assets into a state of good repair. The Federal-State SOGR program will play a crucial role to play in addressing decades of underinvestment in legacy U.S. rail; in 2016, the U.S. DOT estimated the cost of replacing all assets that are past their useful life at $86 billion, with 25 percent of rail transit assets in marginal or poor condition. This program will also assist states in the capital maintenance of a growing pool of CRISI-funded rail corridors.
- **Restoration & Enhancement Grants**: after an initial one-time plus-up, the R&E program will grow at an annual rate of 10%. Restores service over routes formerly operated by Amtrak and establish new services—with a focus on regions and communities that are underserved or not served by other intercity public transportation, particularly projects that would foster economic development in rural communities and for disadvantaged populations. A well-funded R&E grant program will be crucial in developing passenger rail services in rural America, ensuring a broad base of public support.

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	Passenger Rail Funding (in millions)				
	FY2021	FY2022	FY2023	FY2024	FY2025
Program					
Amtrak - National Network	$1,280.6	$1,344.6	$1,411.8	$1,482.4	$1,556.6
Amtrak - NEC	$715.0	$786.5	$865.2	$951.7	$1,046.8
Consolidated Rail Infrastructure & Safety Grants	$1,968.0	$2,187.0	$2,430.0	$2,700.0	$3,000.0
Federal State Partnership for State of Good Repair	$1,312.2	$1,458.0	$1,620.0	$1,800.0	$2,000.0
Restoration & Enhancement Grants	$262.4	$291.6	$324.0	$360.0	$400.0
Total	**$5,538.2**	**$6,067.7**	**$6,651.0**	**$7,294.1**	**$8,003.4**

6.3. General Fund Flexibility

Since 2008, Congress has sustained highway spending by transferring $143 billion in general revenues to the HTF, including $70 billion in 2016 as a result of the FAST Act. To the extent that non-road user revenue is directed to the transportation, states should be able to flex these funds to non-highway projects. Granting local officials discretion in modal allocation of general revenue funds will allow states to direct resources to the highest impact projects.

6.4. FTA Formula Fund and Grant Flexibility

Intercity rail connects with and supports transit rail systems across the U.S., and states and municipalities should be able to flex transit funds to intercity rail projects that support local transit systems.

7. General Transportation Policy

7.1. Highway Rationalization Commission

Marginal Revenue from the fuel tax is now less than one-eighth of the historical Average Cost of the Dwight D. Eisenhower System of Interstate and Defense Highways per vehicle-mile calculated using period bond rates and six decades of Federal Highway Administration data. One has to find actual

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project specific costs to determine Average Cost, but this experience is strangely lacking in many think tanks. The US does not plan highways with a financial metric as a business might; instead using non-budget economic methods to justify access to the leveraged pot-of-money that once was the Highway Trust Fund. To back check the stated shortfall, consider that bottleneck intercity toll roads often need $0.15 per vehicle-mile tolls to cover costs and often fail to do so, relative to less than $0.02 per vehicle-mile now collected from the fuel tax per the nearby chart. Further, many ignore that road accident costs, picked up by non-discretionary programs like Medicaid or Social Security Disability, exceed Federal fuel tax revenue. Financial leverage and offsetting on this scale for non-tolled roads leaves no internal feedback loop to right the system for a sustainable long-run budget.

With much of the interstate coming to the end of its lifespan—and highway user funds being generated by leveraged fuel excise taxes far below what is needed to fund replacement costs—Congress should lead the conversation about right-sizing the Interstate Highway System, and where it would benefit communities to return interstates to local street grids.

RPA is calling for Congress to create a Highway Rationalization Commission (HRC). This commission should produce a plan to refocus the current mission of expanding highways to consolidation of interstate routes to an essential and sustainable highway network. The HRC should also identify changes to HTF funding restrictions that will expand eligibility to maintenance work for roads and bridges and look at reducing federal share for new capacity from an 80-20 federal-local split.